

**LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 7285

BILL NUMBER: HB 1367

NOTE PREPARED: Jan 13, 2013

BILL AMENDED:

SUBJECT: Deceptive Consumer Sales Law.

FIRST AUTHOR: Rep. Soliday

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: This bill provides that a supplier commits an unconscionable act if the supplier refuses to sell to a retailer, with which the supplier has done business within the previous two years, a good at the same price that the supplier sells the good to any other retailer. An unconscionable act is treated the same as a deceptive act under the deceptive consumer sales law except that certain provision do not apply to the unconscionable act. The bill establishes exceptions for certain cases of bulk pricing, shipping costs, and changing conditions affecting the marketability of the goods.

The bill requires a court to award to a retailer the difference between the higher price at which the goods were sold to the retailer and the lower price at which the goods were sold to another retailer if a court finds a supplier has committed an unconscionable act.

The bill requires a court to award to the Attorney General, if the Attorney General files an action to enjoin the unconscionable act, a civil penalty equal to two times the amount of the difference in the higher price at which the goods were sold to a retailer and the lower price at which the goods were sold to another retailer.

Effective Date: July 1, 2013.

Explanation of State Expenditures: *Attorney General (AG):* The bill's requirements are within the agency's routine administrative functions and should be able to be implemented with no additional appropriations, assuming near customary agency staffing and resource levels.

Explanation of State Revenues: The bill allows the AG to bring a civil penalty of not more than two times

the difference between the sales price of the specific good per unconscionable acts committed by a supplier. Any additional revenue collected through this provision will likely be small.

Court Fee Revenue: If additional civil actions occur and court fees are collected, revenue to the state General Fund may increase. A civil costs fee of \$100 would be assessed when a civil case is filed, 70% of which would be deposited in the state General Fund if the case is filed in a court of record or 55% if the case is filed in a city or town court.

In addition, some or all of the judicial salaries fee (\$20), public defense administration fee (\$5), court administration fee (\$5), and the judicial insurance adjustment Fee (\$1) are deposited into the state General Fund. Revenue from the pro bono services fee (\$1) is transferred by the State Auditor to the Indiana Bar Foundation for use to assist with pro bono legal services programs in Indiana. And proceeds from the automated record keeping fee (\$5) are deposited into the state User Fee Fund.

Additional fees may be collected at the discretion of the judge and depending upon the particular type of case.

Explanation of Local Expenditures:

Explanation of Local Revenues: *Court Fee Revenue:* If additional civil actions occur, local governments would receive revenue from the following sources. The county general fund would receive 27% of the \$100 civil costs fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. Additional fees may be collected at the discretion of the judge, depending upon the particular type of case.

Persons filing a civil case are also required to pay the following fees that are deposited in local funds.

The document storage fee (\$2) is deposited into the clerk record perpetuation fund.

The following fees are deposited into the general fund of the county in which the court is located:

- Document fees (\$1 per document) are charged for preparing transcripts or copies of record or certificate under seal.
- Service fee (\$10) collected from the filing party for each defendant beyond the first cited in the lawsuit.

State Agencies Affected: Attorney General

Local Agencies Affected: Trial courts, city and town courts, local law enforcement agencies.

Information Sources:

Fiscal Analyst: Heath Holloway, 232-9867.